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**An Act To Assess the Physical Education Capacity of
Elementary Schools in Maine and To Establish the Obesity
and Chronic Disease Fund within the Department of Education**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA c. 223, sub-c. 7-C is enacted to read:

SUBCHAPTER 7-C

ELEMENTARY SCHOOL PHYSICAL EDUCATION

§ 6631. Obesity and Chronic Disease Fund

1. Fund established. The Obesity and Chronic Disease Fund, referred to in this section as "the fund," is established as an interest-bearing account administered by the department.

2. Revenue. Any private or public funds appropriated, allocated or dedicated to the fund must be deposited into the fund as well as income from any other source directed to the fund. All interest earned by the fund becomes part of the fund. Any balance remaining in the fund at the end of the fiscal year does not lapse but is carried forward into subsequent fiscal years.

3. Use of fund; physical education. Balances in the fund may be used for the necessary expenses of the department in the administration of the fund. Balances in the fund may be used to pay for new equipment, new staff training, new personnel, new administrative costs and other expenses not related to an existing physical education program and for the implementation of a new physical education program for elementary schools.

Sec. 2. Assessment. The Commissioner of Education shall conduct a statewide assessment, using a survey or sampling methodology, of the current physical education capacities of elementary schools in the State. The assessment must include:

1. The average teacher-to-student ratio for academic classes and the average teacher-to-student ratio for physical education classes;
2. The average minutes of physical education per week per student by grade;
3. The average minutes of recess or other opportunity for physical activity during school hours per week per student by grade;
4. The physical plant, infrastructure and equipment in place to support the physical education program;
5. The methods being used to evaluate the physical education of students; and

6. The capacity to conduct baseline fitness assessments and monitor achievement of elementary students.

The commissioner shall work with the elementary schools selected for the assessment to obtain the data required for this assessment in a manner that allows the assessment to be reported by grade, school, school administrative unit and region.

The commissioner shall submit a report on the findings of the assessment to the Joint Standing Committee on Education and Cultural Affairs by February 1, 2010. The report must include a description of the physical education programs in existence for the 2009-2010 school year for elementary schools in the State.

Sec. 3. Use of the Obesity and Chronic Disease Fund. The Commissioner of Education may accept any private or public funds or other income allocated, dedicated or directed to the Obesity and Chronic Disease Fund established in the Maine Revised Statutes, Title 20-A, section 6631 at any time after the effective date of this Act. Notwithstanding Title 20-A, section 6631, subsection 3, the commissioner may not authorize any expenditures from that fund prior to July 1, 2010.

Sec. 4. Authority to submit legislation. After receipt of the assessment required in section 2 of this Act, the Joint Standing Committee on Education and Cultural Affairs may submit a bill to the Second Regular Session of the 124th Legislature pertaining to physical education in elementary schools in the State.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

EDUCATION, DEPARTMENT OF

Obesity and Chronic Disease Fund N075

Initiative: Provides a base allocation in the event that funds are received to fund the implementation of a physical education program for elementary schools, new equipment, new staff training, new personnel, administrative costs and other expenses not related to an existing physical education program.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	<hr/> \$500	<hr/> \$500

Effective September 12, 2009